

Message Text

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ACTION ACDA-10

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TAGS: IAEA, PARM TECH
SUBJECT: IAEA AD HOC ADVISORY GROUP ON NUCLEAR EXPLOSIONS FOR PEACEFUL

PURPOSES: COMMENTS BY FRANCE ON DRAFT REPORT

1. GOV/COM.23/30/ADD.2, 9 AUGUST 1977, CONTAINS
COMMENTS FROM FRANCE ON GOV/COM.23/28. THE FULL TEXT
FOLLOWS BELOW.

2. QUOTE COMMENTS ON THE DRAFT REPORT ANNEXED TO DOCUMENT GOV/COM.23/
28
RECEIVED ON 8 AUGUST 1977

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FRANCE
"ON THE WHOLE THE DRAFT REPORT IS ACCEPTABLE TO THE FRENCH
GOVERNMENT. IT DOES, HOWEVER, CALL FOR THE FOLLOWING OBSERVATIONS.

"(1) GENERALLY SPEAKING, CHAPTER 3 OF THE DRAFT REPORT, CONCERNING
"LEGAL ASPECTS AND TREATY OBLIGATIONS", SHOULD BE CONFINED TO
A PURELY FACTUAL ANALYSIS OF THE RELEVANT INTERNATIONAL INSTRUMENTS.

ANY WORDING THAT TENDS TO GIVE A PARTICULAR SLANT TO CERTAIN INSTRUMENTS SUCH AS NPT SHOULD BE AVOIDED SO AS TO LEAVE STATES WHICH HAVE NOT SIGNED THOSE INSTRUMENTS COMPLETE FREEDOM. THAT BEING SO, THE FOLLOWING MODIFICATIONS SHOULD BE INTRODUCED: "THE FIRST SENTENCE OF PARAGRAPH 2 OF CHAPTER 3, WHICH READS AT PRESENT: "THE NPT IS THE STARTING POINT OF EXAMINATION OF

QUESTIONS RELATING TO INTERNATIONAL ARRANGEMENTS FOR THE PROVISION OF NUCLEAR EXPLOSIONS FOR PEACEFUL PURPOSES" SHOULD BE REDRAFTED TO READ: "NPT CAN SERVE AS THE POINT OF DEPARTURE FOR AN INITIAL EXAMINATION OF QUESTIONS RELATING TO INTERNATIONAL ARRANGEMENTS FOR THE PROVISION OF NUCLEAR EXPLOSIONS FOR PEACEFUL PURPOSES."

"IN THE TITLE OF CHAPTER 8 THE WORDS "IN ACCORDANCE WITH THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS" SHOULD BE REPLACED BY: "IN THE LIGHT OF THE PROVISIONS OF THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS".

"(2) CHAPTER 8, PARAGRAPH 21: CIVIL LIABILITY

"SUB-PARAGRAPH (A): THE PROVISIONS OF THIS SUB-PARAGRAPH SHOULD BE MITIGATED BY INTRODUCING AN EXCEPTION FOR THE CASE WHERE THE PERSONS OR COUNTRIES SUFFERING DAMAGE HAVE FAILED TO OBSERVE THE SAFETY RULES LAID DOWN BY THE SUPPLIER.

"SUB-PARAGRAPH (B): THE PROVISIONS OF THIS SUB-PARAGRAPH UNCLASSIFIED

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DO NOT SETTLE THE QUESTION WHO IS TO BE LIABLE FOR DAMAGE, THE SUPPLIER OR THE RECIPIENT, BUT IN THE FINAL ANALYSIS RESULT IN JOINT LIABILITY. THE PRINCIPLE OF JOINT LIABILITY SEEMS UNDESIRABLE IN THIS CONTEXT.

" IN POINT OF FACT, IT WOULD PROBABLY BE WISE TO AIM AT AN A PRIORI ALLOCATION OF LIABILITY NOT CONNECTED WITH THE LEGAL PRINCIPLES OF PROPERTY OR CUSTODY; ONE MIGHT, FOR EXAMPLE, BE GUIDED BY A CONCEPT SIMILAR TO THE CONCEPT OF CIVIL LIABILITY FOR NUCLEAR DAMAGE EMBODIED IN THE VIENNA AND PARIS CONVENTIONS, WHICH MEANS CHANNELLING LIABILITY EXCLUSIVELY TO THE "OPERATOR"-IN THIS CASE THE RECIPIENT COUNTRY WOULD OCCUPY A POSITION ANALOGOUS TO THAT OF THE NUCLEAR OPERATOR-EXCEPT IN CASES INVOLVING DELIBERATE ACTS OR OMISSIONS ON THE PART OF THE SUPPLIER." UNQUOTE. STONE

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